

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

IN RE:)	CHAPTER 11
)	
KRYOSPHERE, INC.,)	14-22080-jrs
)	
Debtor.)	

**FIRST OMNIBUS MOTION TO ASSUME CUSTOMER CONTRACTS
AND ASSIGN TO KRYOCAL, LLC**

NOTICE: THE PARTIES RECEIVING THIS MOTION SHOULD LOCATE THEIR NAMES AND THEIR ASSOCIATED EXECUTORY CONTRACTS ON EXHIBIT A TO THIS MOTION.

COMES NOW Debtor Kryosphere, Inc. and, pursuant to 11 U.S.C. § 365 and Federal Rule of Bankruptcy Procedure 6006, hereby moves this Court for entry of an Order authorizing the assumption of the customer contracts identified on Exhibit A hereto (the “Contracts”) and the assignment of the Contracts to Kryocal, LLC, a North Carolina limited liability company (“Kryocal”). In support of this Motion, Debtor shows the Court the following:

BACKGROUND FACTS

1.

This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

2.

Debtor commenced this Chapter 11 bankruptcy case by filing a voluntary petition for relief on September 2, 2014. Debtor is operating as a debtor in possession.

3.

Debtor operates a biorepository, which essentially is a cold storage facility for certain biological samples. For a more detailed description of Debtor's operations, please see the Declaration of John O. Norton In Support Of First Day Motions (doc. 3).

ASSET SALE / ASSIGNMENT AND ASSUMPTION OF CONTRACTS

4.

Debtor filed a Motion to Sell Substantially All of Debtor's Assets Free and Clear of Claims, Liens and Encumbrances (doc. 53) (the "Sale Motion"). Any objections to the Sale Motion were resolved, and Debtor anticipates that the Court will grant the Sale Motion promptly.

5.

Pursuant to the Sale Motion, Debtor proposes to sell substantially all of its assets to Kryocal, an unaffiliated third party, on terms and conditions more specifically set forth in the Sale Motion.

6.

As a part of such a sale, Debtor proposes to assume the Contracts and assign the Contracts to Kryocal, to be effective upon the closing of Kryocal's purchase of Debtor's assets.

CURE AMOUNTS

7.

Pursuant to 11 U.S.C. § 365(b)(1), prior to an assumption of the Contracts, Debtor must (i) cure, or provide adequate assurance that Debtor will promptly cure, defaults under the Contracts and (ii) provides adequate assurance of future performance under the Contracts.

8.

Debtor asserts that no default exists under any of the Contracts, and therefore no cure is required.

9.

With respect to adequate assurance of future performance, Debtor shows that Kryocal has dedicated substantial equity with respect to its purchaser of Debtor's assets and takeover of Debtor's business. Kryocal is substantially motivated to perform under the Contracts, as such performance is vital to Kryocal's success. In addition, Debtor anticipates that Kryocal will be required to undergo credit review by CAT Financial with respect to an assumption and assignment of one of Debtor's equipment leases.

10.

Debtor anticipates that the closing of the sale to Kryocal, and the assignment and assumption contemplated herein, will be consummated promptly upon Court approval of this Motion.

WHEREFORE, Debtor respectfully moves this Court to:

- (a) hold a hearing on this Motion;
- (b) enter an Order granting this Motion, effective immediately and not stayed pursuant to Fed. R. Bank. P. 6006(d); and
- (c) grant Debtor such other and further relief as may be equitable, proper and just.

Respectfully submitted this 24th day of December, 2014.

MARTIN BAGWELL LUKE, P.C.

/s/ Jimmy C. Luke, II
Jimmy C. Luke, II
Georgia Bar No. 191817

400 Northridge Road, Suite 1225
Atlanta, Georgia 30350
Direct: (404) 467-5867
Facsimile: (678) 218-0396
Email: jluke@mblawfirm.com
Counsel for Debtor

EXHIBIT A
Contracts to be Assumed

CUSTOMER NAME	ADDRESS	PROPOSED CURE AMOUNT
Achelios Therapeutics	6340 Quadrangle Drive Suite 120 Chapel Hill, NC 27517	\$0.00
Acorda - Neuronex	420 Saw Mill River Road Ardsley, NY 10502	\$0.00
AlphaVax	2 Triangle Drive Research Triangle Park, NC 27709-0307	\$0.00
Asklepios	45 N. Chatham Parkway Chapel Hill, NC 27517	\$0.00
Avioq	P.O. Box 12808 Research Triangle Park, NC 27709	\$0.00
Bayer Cropscience	Attn: Marcie Tolley P.O. Box 98 Pittsburgh, PA 15230-0098	\$0.00
Bayer CropScience	Attn: Sandy Mackie P.O. Box 98 Pittsburgh, PA 15230-0098	\$0.00
BD Technologies	P.O. Box 5200 Rantoul, IL 61866-5200	\$0.00
BHV Pharma	3200 East Hwy. 54 Research Triangle Park, NC 27709	\$0.00
Cellular Dynamics, Inc.	525 Science Drive Madison, WI 53711	\$0.00
Chimerix, Inc.	4134 S. Alston Avenue Durham, NC 27713	\$0.00

CorePharma	Attn: Finance Department 215 Wood Avenue Middlesex, NJ 08846-2554	\$0.00
Cytonet	801 Capitola Drive, Suite 8 Durham, NC 27713	\$0.00
Duke Brain Tumor Center -	P. O. Box 104131 Durham, NC 27708	\$0.00
Duke CTIL	P.O. Box 104131 Durham, NC 27708	\$0.00
Duke Div Infectious Diseases	DUMC 102359 (Erwin Square, Room 348) Durham, NC 27710	\$0.00
Duke IGSP - Burke Labs	P.O. Box 104131 Durham, NC 27708	\$0.00
Duke RadCCORE	3961 Duke University Durham, NC 27710	\$0.00
Duke University	324 Blackwell Street Washington Bldg Ste 800 P.O. Box 1044131 Durham, NC 27708	\$0.00
Duke University Medical Center	Attn: John D. York, PhD Department of Biochemistry 607 Light Hall 2215 Garland Ave. Nashville, TN 37232-0146	\$0.00
Dupuy Oxygen & Supply	Attn: Sharon Tomlinson 7201 Imperial Drive Waco, TX 76712	\$0.00
Dupuy Oxygen & Supply	P.O. Box 7833 Waco, TX 76714	\$0.00

Emory University	1525 Clifton Road, Ste 100 Atlanta, GA 30322	\$0.00
Emory University Hospital	Attn: Accounts Payable 1364 Clifton Road NE Atlanta, GA 30322	\$0.00
Fujifilm Diosynth	101 J Morris Commons Ln Morrisville, NC 27560	\$0.00
GeoVax	1900 Lake Park Drive Suite 380 Smyrna, GA 30080	\$0.00
Glenmark Generics, Inc.	750 Corporate Drive Mahwah, NJ 07430	\$0.00
Global Vaccines	801-11 Capitola Drive Durham, NC 27713	\$0.00
Heat Biologics, Inc.	Heat Biologics, Inc. 100 Europa Drive, Ste 420 Chapel Hill, NC 27517	\$0.00
Howard Hughes Med Institute	4000 Jones Bridge Road Chevy Chase, MD 20815	\$0.00
Hoxworth Blood Center	3130 Highland Avenue Cincinnati, OH 45269 Attn: Traci Kraus	\$0.00
Humacyte	P.O. Box 12695 Durham, NC 37709	\$0.00
Inovio - VGX Pharmaceuticals, LLC	Attn: Jessica C Lee 1787 Sentry Parkway Building 18 Suite 400 Blue Bell, PA 19422	\$0.00

Intrexon	Attn: Accounts Payable 1750 Kraft Drive Suite 1400 Blacksburg, VA 24060	\$0.00
Medicago	7 Triangle Drive Durham, NC 27713	\$0.00
Medical University of South Carolina	Attn: Wayne Singleton 96 Jonathan Lucas Street MSC 613, Room 420M Charleston, SC 29425	\$0.00
Memorial Sloan-Kettering	300 E 66th Street New York, NY 10065	\$0.00
Merck-Inspire Pharmaceuticals, Inc.	Attn: Merk Sharp & Dohme Corp PtP Shared Services P.O. Box 982122 El Paso, TX 79998-2122	\$0.00
Metabolon	Attn: Don Harvan, Director P.O. Box 110407 Research Triangle Park, NC 27709	\$0.00
Monsanto - Agradis	Attn: Accounts Payable Department G5NP P.O. Box 19095 St Louis, MO 53141-9095	\$0.00
Octopharma Plasma	3525 Whitehall Park Drive, Suite 500 Charlotte, NC 28273	\$0.00
Pfizer/Neusentis- Icagen	Attn: Pfizer, Inc. GFSS – Americas P.O. Box 34600 Bartlett, TN 38184-0600	\$0.00
Precision BioSciences, Inc.	302 E. Pettigrew Street Dibrell Building Suite A-100 Durham, NC 27701	\$0.00

RetroSense Therapeutics	Attn: Steven Bramer 330 East Liberty Street LL Ann Arbor, MI 48104	\$0.00
Rotem	Attn: TEM Systems Inc. Jaymee May 4309 Emperor Blvd, Suite 100 Durham, NC 27703	\$0.00
RX-GEN	5001 Plaza on the Lake, Ste 103 Austin, TX 78746	\$0.00
Samsung Bioepsis Co., Ltd.	107 Cheomdan-daero Yeonsu-gu Incheon 406-840 Republic of Korea	\$0.00
Senesco Technologies	Attn: Richard S. Dondero 303 George St, Ste 420 New Brunswick, NJ 08901	\$0.00
Syngenta Crop Protection, Inc.	Attn: Katherine Dixon P.O. Box 18847 Greensboro, NC 27419	\$0.00
Targacept	100 North Main Street, Suite 1510 Winston-Salem, NC 27101-4072	\$0.00
TyraTech	5151 McCrimmon Pkwy Ste 275 Morrisville, NC 27560	\$0.00
UNC-Chapel Hill	Attn: Sara VanHeusen 116 Manning Dr. CB 7290 Chapel Hill, NC 27599	\$0.00
UNC Biospecimen Proc Fac	Attn: Patricia Basta, Ph.D. University of North Carolina 3003 Michael Hooker Research Dr. Chapel Hill, NC 27599-7435	\$0.00

UNC Cystic Fibrosis (Randell)	UNC Cystic Fibrosis Ctr. CB-7248 4011 Thurston-Bowles Bldg. Chapel Hill, NC 27599	\$0.00
UNC Cystic Fibrosis (Tarran)	UNC CF Center 7007A Thurston Bowles Bldg CB#7248 Chapel Hill, NC 27599	\$0.00
UNC Dental School	Univ. of N. Carolina-Chapel Hill Giles F. Horney Building 103 Airport Drive, CB 1090 Chapel Hill, NC 27599	
UNC Dental School Nackley Lab	UNC - Chapel Hill Sch. Of Dent. Koury Oral Health Sciences #5614 385 South Columbia Street Chapel Hill, NC 27599-7455	\$0.00
UNC LCCC CBCS	Patricia Basta/CBCS - Epidemiology 135 Dauer Drive Michael Hooker Res Cntr 3213 - UNC Chapel Hill, NC 27599	\$0.00
UNC LCCC Jen Jen Yeh Lab	Jen Jen Yeh Lineberger Cancer Center 450 West Drive, Room 22 056 Chapel Hill, NC 27599-001	\$0.00
UNC LCCC PCaP	Patricia Basta/PCAP - Epidemiology 135 Dauer Drive Michael Hooker Res Cntr/3213 Chapel Hill, NC 27599	\$0.00
UNC LCCC Ramsden Lab	450 West Drive, CB 7295 Chapel Hill, NC 27599	\$0.00
UNC LCCC TCF	Tissue Culture Facility Lineberger Comprehensive Cancer Center CB7295, 318 Lineberger Chapel Hill, NC 27599	\$0.00

UNC LCCC Weissman Lab	UNC - Lineberger Comprehensive Cancer Ctr Weissman Lab 101 Manning Drive Chapel Hill, NC 27514	\$0.00
UNC MMRRC	Genetics-MMRRC 120 Mason Farm Road 5023E GMB Chapel Hill, NC 27599-7519	\$0.00
UNC Pediatrics Darville Lab	UNC Pediatric AIRID 2242 Genome Science Bldg CB#7231 250 Bell Tower Drive Chapel Hill, NC 27599-7231	\$0.00
UNC Vector Core	7119 Thurston Bowles, CB#7352 Chapel Hill, NC 27599	\$0.00
Vanderbilt University	Office of Space & Facilities Planning Crystal Terrace 3319 West End Ave., Ste 200 Nashville, TN 37203-105	\$0.00
Vascular Pharmaceuticals Inc	510 Meadowmont Village Circle Suite 283 Chapel Hill, NC 27517	\$0.00
ZeeCRO - Actavis Elizabeth, LLC	200 Elmora Ave. Elizabeth, NJ 07207	\$0.00
ZeeCRO - Amneal Pharmaceuticals	85 Adams Ave. Hauppauge, NY 11788	\$0.00
ZeeCRO - CorePharma	Attn Evett Fernandez 215 Wood Avenue Middlesex, NJ 08846	\$0.00
ZeeCRO - Dr. Reddy's Laboratories	7-1-27, Ameerpet Hyderabad- India 500016	\$0.00

ZeeCRO - Glenmark	Glenmark Generics, Ltd. Glenmark Generics Research Centre, Plot NO. A-607 T.T.C. Industrial Area Midc Mahape, Navi Mumbai, India 400709	\$0.00
ZeeCRO - Iroko	Concur Invoice Capature c/o Iroko Pharmaceuticals, LLC 10700 Prairie Lakes Drive Eden Prairie, MN 55344	\$0.00
ZeeCRO - Kali Laboratories, Inc.	Accounts Payable Par Pharma/Kali Labs 300 Tice Boulevard Woodcliff Lake, NJ 07677	\$0.00
ZeeCRO - Medicis Pharmaceutical	Medicis Pharmaceutical Corp 7720 North Dobson Road Scottsdale, AZ 85256	\$0.00
ZeeCRO - Novel Laboratories	Accounts Payable Novel Laboratories, Inc. 400 Campus Drive Somerset, NJ 08873	\$0.00
ZeeCRO - Par Pharmaceutical	300 Tice Blvd. Woodcliff Lake, NJ 07677	\$0.00
ZeeCRO - Perrigo - Paddock Laboratories	1701 Bathgate Avenue Bronx, NY 10457	\$0.00
ZeeCRO - Ranbaxy Laboratories	Tausif Moni, V.P. Ranbaxy Laboratories Limited Plot No. GP-5, Sector 18, HSIDC Old Delhi-Gurgaon Road, Gurgaon 122 015	\$0.00

CERTIFICATE OF SERVICE

I certify that on this day, I have served the foregoing via U.S. Mail on all parties listed on Exhibit A to the Motion and the following:

Office of the United States Trustee
75 Spring Street
362 Richard B. Russell Building
Atlanta, GA 30303
Attn: James H. Morawetz, Esq.

John A. Thomson, Jr.
Womble Carlyle Sandridge & Rice LLP
271 17th Street, Suite 2400
Atlanta, GA 30363-1017

Ron C. Bingham, II, Esq.
Stites & Harbison, PLLC
303 Peachtree Street, NE
2800 SunTrust Plaza
Atlanta, GA 30308

J. William Boone, Esq.
Doroteya N. Wozniak, Esq.
James Bates Brannan Groover LLP
3399 Peachtree Road, Suite 1700
Atlanta, GA 30326

Adam Reinke, Esq.
DLA Piper LLP (US)
One Atlantic Center
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309-3450

This 24th day of December, 2014.

MARTIN BAGWELL LUKE, P.C.

/s/ Jimmy C. Luke, II
Jimmy C. Luke, II
Georgia Bar No. 191817

400 Northridge Road, Suite 1225
Atlanta, Georgia 30350
Direct: (404) 467-5867
Facsimile: (678) 218-0396
Email: jluke@mbllawfirm.com
Counsel for Debtor